

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 176

SENATE BILL 1187

AN ACT

REPEALING TITLE 14, CHAPTER 7, ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING
TITLE 14, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 4;
RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Title 14, chapter 7, article 4, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 14, chapter 7, Arizona Revised Statutes, is amended by
5 adding a new article 4, to read:

6 ARTICLE 4. REVISED UNIFORM PRINCIPAL AND INCOME ACT

7 14-7401. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ACCOUNTING PERIOD" MEANS A CALENDAR YEAR UNLESS ANOTHER TWELVE
10 MONTH PERIOD IS SELECTED BY A FIDUCIARY AND INCLUDES A PORTION OF A CALENDAR
11 YEAR OR OTHER TWELVE MONTH PERIOD THAT BEGINS WHEN AN INCOME INTEREST BEGINS
12 OR ENDS WHEN AN INCOME INTEREST ENDS.

13 2. "BENEFICIARY" INCLUDES, IN THE CASE OF A DECEDENT'S ESTATE, AN
14 HEIR, LEGATEE AND DEVISEE AND, IN THE CASE OF A TRUST, AN INCOME BENEFICIARY
15 AND A REMAINDER BENEFICIARY.

16 3. "FIDUCIARY" MEANS A PERSONAL REPRESENTATIVE OR A TRUSTEE AND
17 INCLUDES AN EXECUTOR, AN ADMINISTRATOR, A SUCCESSOR PERSONAL REPRESENTATIVE,
18 A SPECIAL ADMINISTRATOR AND A PERSON PERFORMING SUBSTANTIALLY THE SAME
19 FUNCTION.

20 4. "INCOME" MEANS MONEY OR PROPERTY THAT A FIDUCIARY RECEIVES AS
21 CURRENT RETURN FROM A PRINCIPAL ASSET AND INCLUDES A PORTION OF RECEIPTS FROM
22 A SALE, EXCHANGE OR LIQUIDATION OF A PRINCIPAL ASSET, TO THE EXTENT PROVIDED
23 IN SECTIONS 14-7410 THROUGH 14-7424.

24 5. "INCOME BENEFICIARY" MEANS A PERSON TO WHOM NET INCOME OF A TRUST
25 IS OR MAY BE PAYABLE.

26 6. "INCOME INTEREST" MEANS THE RIGHT OF AN INCOME BENEFICIARY TO
27 RECEIVE ALL OR PART OF NET INCOME, WHETHER THE TERMS OF THE TRUST REQUIRE IT
28 TO BE DISTRIBUTED OR AUTHORIZE IT TO BE DISTRIBUTED IN THE TRUSTEE'S
29 DISCRETION.

30 7. "MANDATORY INCOME INTEREST" MEANS THE RIGHT OF AN INCOME
31 BENEFICIARY TO RECEIVE NET INCOME THAT THE TERMS OF THE TRUST REQUIRE THE
32 FIDUCIARY TO DISTRIBUTE.

33 8. "NET INCOME" MEANS THE TOTAL RECEIPTS ALLOCATED TO INCOME DURING
34 AN ACCOUNTING PERIOD MINUS THE DISBURSEMENTS MADE FROM INCOME DURING THE
35 PERIOD, PLUS OR MINUS TRANSFERS UNDER THIS ARTICLE TO OR FROM INCOME DURING
36 THE PERIOD.

37 9. "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,
38 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,
39 GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY, PUBLIC
40 CORPORATION OR OTHER LEGAL OR COMMERCIAL ENTITY.

41 10. "PRINCIPAL" MEANS PROPERTY HELD IN TRUST FOR DISTRIBUTION TO A
42 REMAINDER BENEFICIARY WHEN THE TRUST TERMINATES.

43 11. "REMAINDER BENEFICIARY" MEANS A PERSON ENTITLED TO RECEIVE
44 PRINCIPAL WHEN AN INCOME INTEREST ENDS.

1 12. "TERMS OF A TRUST" MEANS THE MANIFESTATION OF THE INTENT OF A
2 SETTLOR OR DECEDENT WITH RESPECT TO THE TRUST EXPRESSED IN A MANNER THAT
3 ADMITS OF ITS PROOF IN A JUDICIAL PROCEEDING, WHETHER BY WRITTEN OR SPOKEN
4 WORDS OR BY CONDUCT.

5 13. "TRUSTEE" INCLUDES AN ORIGINAL, ADDITIONAL OR SUCCESSOR TRUSTEE,
6 WHETHER OR NOT APPOINTED OR CONFIRMED BY A COURT.

7 14-7402. Fiduciary duties; general principles

8 A. IN ALLOCATING RECEIPTS AND DISBURSEMENTS TO OR BETWEEN PRINCIPAL
9 AND INCOME, AND WITH RESPECT TO ANY MATTER WITHIN THE SCOPE OF SECTIONS
10 14-7405 THROUGH 14-7409, A FIDUCIARY:

11 1. SHALL ADMINISTER A TRUST OR ESTATE IN ACCORDANCE WITH THE TERMS OF
12 THE TRUST OR THE WILL, EVEN IF THERE IS A DIFFERENT PROVISION IN THIS
13 ARTICLE.

14 2. MAY ADMINISTER A TRUST OR ESTATE BY THE EXERCISE OF A DISCRETIONARY
15 POWER OF ADMINISTRATION GIVEN TO THE FIDUCIARY BY THE TERMS OF THE TRUST OR
16 THE WILL, EVEN IF THE EXERCISE OF THE POWER PRODUCES A RESULT DIFFERENT FROM
17 A RESULT REQUIRED OR PERMITTED BY THIS ARTICLE.

18 3. SHALL ADMINISTER A TRUST OR ESTATE IN ACCORDANCE WITH THIS ARTICLE
19 IF THE TERMS OF THE TRUST OR THE WILL DO NOT CONTAIN A DIFFERENT PROVISION
20 OR DO NOT GIVE THE FIDUCIARY A DISCRETIONARY POWER OF ADMINISTRATION.

21 4. SHALL ADD A RECEIPT OR CHARGE A DISBURSEMENT TO PRINCIPAL TO THE
22 EXTENT THAT THE TERMS OF THE TRUST AND THIS ARTICLE DO NOT PROVIDE A RULE FOR
23 ALLOCATING THE RECEIPT OR DISBURSEMENT TO OR BETWEEN PRINCIPAL AND INCOME.

24 B. IN EXERCISING THE POWER TO ADJUST UNDER SECTION 14-7403, SUBSECTION
25 A OR A DISCRETIONARY POWER OF ADMINISTRATION REGARDING A MATTER WITHIN THE
26 SCOPE OF THIS ARTICLE, WHETHER GRANTED BY THE TERMS OF A TRUST, A WILL OR
27 THIS ARTICLE, A FIDUCIARY SHALL ADMINISTER A TRUST OR ESTATE IMPARTIALLY,
28 BASED ON WHAT IS FAIR AND REASONABLE TO ALL OF THE BENEFICIARIES, EXCEPT TO
29 THE EXTENT THAT THE TERMS OF THE TRUST OR THE WILL CLEARLY MANIFEST AN
30 INTENTION THAT THE FIDUCIARY SHALL OR MAY FAVOR ONE OR MORE OF THE
31 BENEFICIARIES. A DETERMINATION IN ACCORDANCE WITH THIS ARTICLE IS PRESUMED
32 TO BE FAIR AND REASONABLE TO ALL OF THE BENEFICIARIES.

33 14-7403. Trustee's power to adjust

34 A. A TRUSTEE MAY ADJUST BETWEEN PRINCIPAL AND INCOME TO THE EXTENT THE
35 TRUSTEE CONSIDERS NECESSARY IF THE TRUSTEE INVESTS AND MANAGES TRUST ASSETS
36 AS A PRUDENT INVESTOR, THE TERMS OF THE TRUST DESCRIBE THE AMOUNT THAT MAY
37 OR MUST BE DISTRIBUTED TO A BENEFICIARY BY REFERRING TO THE TRUST'S INCOME
38 AND THE TRUSTEE DETERMINES, AFTER APPLYING THE PROVISIONS OF SECTION 14-7402,
39 SUBSECTION A, THAT THE TRUSTEE IS UNABLE TO COMPLY WITH SECTION 14-7402,
40 SUBSECTION B.

41 B. IN DECIDING WHETHER AND TO WHAT EXTENT TO EXERCISE THE POWER
42 CONFERRED BY SUBSECTION A OF THIS SECTION, A TRUSTEE SHALL CONSIDER ALL
43 FACTORS RELEVANT TO THE TRUST AND ITS BENEFICIARIES, INCLUDING THE FOLLOWING
44 FACTORS TO THE EXTENT THEY ARE RELEVANT:

45 1. THE NATURE, PURPOSE AND EXPECTED DURATION OF THE TRUST.

- 1 2. THE INTENT OF THE SETTLOR.
- 2 3. THE IDENTITY AND CIRCUMSTANCES OF THE BENEFICIARIES.
- 3 4. THE NEED FOR LIQUIDITY, REGULARITY OF INCOME AND PRESERVATION AND
- 4 APPRECIATION OF CAPITAL.
- 5 5. THE ASSETS HELD IN THE TRUST AND:
- 6 (a) THE EXTENT TO WHICH:
- 7 (i) THEY CONSIST OF FINANCIAL ASSETS, INTERESTS IN CLOSELY HELD
- 8 ENTERPRISES, TANGIBLE AND INTANGIBLE PERSONAL PROPERTY OR REAL PROPERTY.
- 9 (ii) AN ASSET IS USED BY A BENEFICIARY.
- 10 (b) WHETHER AN ASSET WAS PURCHASED BY THE TRUSTEE OR RECEIVED FROM THE
- 11 SETTLOR.
- 12 6. THE NET AMOUNT ALLOCATED TO INCOME UNDER THIS ARTICLE AND THE
- 13 INCREASE OR DECREASE IN THE VALUE OF THE PRINCIPAL ASSETS, WHICH THE TRUSTEE
- 14 MAY ESTIMATE AS TO ASSETS FOR WHICH MARKET VALUES ARE NOT READILY AVAILABLE.
- 15 7. WHETHER AND TO WHAT EXTENT THE TERMS OF THE TRUST GIVE THE TRUSTEE
- 16 THE POWER TO INVADE PRINCIPAL OR ACCUMULATE INCOME OR PROHIBIT THE TRUSTEE
- 17 FROM INVADING PRINCIPAL OR ACCUMULATING INCOME, AND THE EXTENT TO WHICH THE
- 18 TRUSTEE HAS EXERCISED A POWER FROM TIME TO TIME TO INVADE PRINCIPAL OR
- 19 ACCUMULATE INCOME.
- 20 8. THE ACTUAL AND ANTICIPATED EFFECT OF ECONOMIC CONDITIONS ON
- 21 PRINCIPAL AND INCOME AND EFFECTS OF INFLATION AND DEFLATION.
- 22 9. THE ANTICIPATED TAX CONSEQUENCES OF AN ADJUSTMENT.
- 23 C. A TRUSTEE MAY NOT MAKE AN ADJUSTMENT:
- 24 1. THAT DIMINISHES THE INCOME INTEREST IN A TRUST THAT REQUIRES ALL
- 25 OF THE INCOME TO BE PAID AT LEAST ANNUALLY TO A SPOUSE AND FOR WHICH AN
- 26 ESTATE TAX OR GIFT TAX MARITAL DEDUCTION WOULD BE ALLOWED, IN WHOLE OR IN
- 27 PART, IF THE TRUSTEE DID NOT HAVE THE POWER TO MAKE THE ADJUSTMENT.
- 28 2. THAT REDUCES THE ACTUARIAL VALUE OF THE INCOME INTEREST IN A TRUST
- 29 TO WHICH A PERSON TRANSFERS PROPERTY WITH THE INTENT TO QUALIFY FOR A GIFT
- 30 TAX EXCLUSION.
- 31 3. THAT CHANGES THE AMOUNT PAYABLE TO A BENEFICIARY AS A FIXED ANNUITY
- 32 OR A FIXED FRACTION OF THE VALUE OF THE TRUST ASSETS.
- 33 4. FROM ANY AMOUNT THAT IS PERMANENTLY SET ASIDE FOR CHARITABLE
- 34 PURPOSES UNDER A WILL OR THE TERMS OF A TRUST UNLESS BOTH INCOME AND
- 35 PRINCIPAL ARE SO SET ASIDE.
- 36 5. IF POSSESSING OR EXERCISING THE POWER TO MAKE AN ADJUSTMENT CAUSES
- 37 AN INDIVIDUAL TO BE TREATED AS THE OWNER OF ALL OR PART OF THE TRUST FOR
- 38 INCOME TAX PURPOSES AND THE INDIVIDUAL WOULD NOT BE TREATED AS THE OWNER IF
- 39 THE TRUSTEE DID NOT POSSESS THE POWER TO MAKE AN ADJUSTMENT.
- 40 6. IF POSSESSING OR EXERCISING THE POWER TO MAKE AN ADJUSTMENT CAUSES
- 41 ALL OR PART OF THE TRUST ASSETS TO BE INCLUDED FOR ESTATE TAX PURPOSES IN THE
- 42 ESTATE OF AN INDIVIDUAL WHO HAS THE POWER TO REMOVE A TRUSTEE OR APPOINT A
- 43 TRUSTEE, OR BOTH, AND THE ASSETS WOULD NOT BE INCLUDED IN THE ESTATE OF THE
- 44 INDIVIDUAL IF THE TRUSTEE DID NOT POSSESS THE POWER TO MAKE AN ADJUSTMENT.
- 45 7. IF THE TRUSTEE IS A BENEFICIARY OF THE TRUST.

1 8. IF THE TRUSTEE IS NOT A BENEFICIARY, BUT THE ADJUSTMENT WOULD
2 BENEFIT THE TRUSTEE DIRECTLY OR INDIRECTLY.

3 D. IF SUBSECTION C, PARAGRAPH 5, 6, 7 OR 8 OF THIS SECTION APPLIES TO
4 A TRUSTEE AND THERE IS MORE THAN ONE TRUSTEE, A COTRUSTEE TO WHOM THE
5 PROVISION DOES NOT APPLY MAY MAKE THE ADJUSTMENT UNLESS THE EXERCISE OF THE
6 POWER BY THE REMAINING TRUSTEE OR TRUSTEES IS NOT PERMITTED BY THE TERMS OF
7 THE TRUST.

8 E. A TRUSTEE MAY RELEASE THE ENTIRE POWER CONFERRED BY SUBSECTION A
9 OF THIS SECTION OR MAY RELEASE ONLY THE POWER TO ADJUST FROM INCOME TO
10 PRINCIPAL OR THE POWER TO ADJUST FROM PRINCIPAL TO INCOME IF THE TRUSTEE IS
11 UNCERTAIN ABOUT WHETHER POSSESSING OR EXERCISING THE POWER WILL CAUSE A
12 RESULT DESCRIBED IN SUBSECTION C, PARAGRAPH 1, 2, 3, 4, 5, 6 OR 8 OF THIS
13 SECTION, OR IF THE TRUSTEE DETERMINES THAT POSSESSING OR EXERCISING THE POWER
14 WILL OR MAY DEPRIVE THE TRUST OF A TAX BENEFIT OR IMPOSE A TAX BURDEN NOT
15 DESCRIBED IN SUBSECTION C OF THIS SECTION. THE RELEASE MAY BE PERMANENT OR
16 FOR A SPECIFIED PERIOD, INCLUDING A PERIOD MEASURED BY THE LIFE OF AN
17 INDIVIDUAL.

18 F. TERMS OF A TRUST THAT LIMIT THE POWER OF A TRUSTEE TO MAKE AN
19 ADJUSTMENT BETWEEN PRINCIPAL AND INCOME DO NOT AFFECT THE APPLICATION OF THIS
20 SECTION UNLESS IT IS CLEAR FROM THE TERMS OF THE TRUST THAT THE TERMS ARE
21 INTENDED TO DENY THE TRUSTEE THE POWER OF ADJUSTMENT CONFERRED BY SUBSECTION
22 A OF THIS SECTION.

23 14-7404. Judicial control of discretionary powers

24 A. A COURT SHALL NOT CHANGE A FIDUCIARY'S DECISION TO EXERCISE OR NOT
25 TO EXERCISE A DISCRETIONARY POWER CONFERRED BY THIS ARTICLE UNLESS IT
26 DETERMINES THAT THE DECISION WAS AN ABUSE OF THE FIDUCIARY'S DISCRETION. A
27 COURT SHALL NOT DETERMINE THAT A FIDUCIARY ABUSED ITS DISCRETION MERELY
28 BECAUSE THE COURT WOULD HAVE EXERCISED THE DISCRETION IN A DIFFERENT MANNER
29 OR WOULD NOT HAVE EXERCISED THE DISCRETION.

30 B. THE DECISIONS TO WHICH SUBSECTION A OF THIS SECTION APPLIES
31 INCLUDE:

32 1. A DETERMINATION UNDER SECTION 14-7403, SUBSECTION A OF WHETHER AND
33 TO WHAT EXTENT AN AMOUNT SHOULD BE TRANSFERRED FROM PRINCIPAL TO INCOME OR
34 FROM INCOME TO PRINCIPAL.

35 2. A DETERMINATION OF THE FACTORS THAT ARE RELEVANT TO THE TRUST AND
36 ITS BENEFICIARIES, THE EXTENT TO WHICH THEY ARE RELEVANT AND THE WEIGHT, IF
37 ANY, TO BE GIVEN TO THE RELEVANT FACTORS IN DECIDING WHETHER AND TO WHAT
38 EXTENT TO EXERCISE THE POWER CONFERRED BY SECTION 14-7403, SUBSECTION A.

39 C. IF A COURT DETERMINES THAT A FIDUCIARY HAS ABUSED ITS DISCRETION,
40 THE REMEDY IS TO RESTORE THE INCOME AND REMAINDER BENEFICIARIES TO THE
41 POSITIONS THEY WOULD HAVE OCCUPIED IF THE FIDUCIARY HAD NOT ABUSED ITS
42 DISCRETION AS FOLLOWS:

43 1. TO THE EXTENT THAT THE ABUSE OF DISCRETION HAS NOT RESULTED IN A
44 DISTRIBUTION TO A BENEFICIARY OR A DISTRIBUTION THAT IS TOO SMALL, THE COURT
45 SHALL REQUIRE THE FIDUCIARY TO DISTRIBUTE FROM THE TRUST TO THE BENEFICIARY

1 AN AMOUNT THAT THE COURT DETERMINES WILL RESTORE THE BENEFICIARY, IN WHOLE
2 OR IN PART, TO THAT PERSON'S APPROPRIATE POSITION.

3 2. TO THE EXTENT THAT THE ABUSE OF DISCRETION HAS RESULTED IN A
4 DISTRIBUTION TO A BENEFICIARY THAT IS TOO LARGE, THE COURT SHALL RESTORE THE
5 BENEFICIARIES OR THE TRUST, OR BOTH, IN WHOLE OR IN PART, TO THEIR
6 APPROPRIATE POSITIONS BY REQUIRING THE FIDUCIARY TO WITHHOLD AN AMOUNT FROM
7 ONE OR MORE FUTURE DISTRIBUTIONS TO THE BENEFICIARY WHO RECEIVED THE
8 DISTRIBUTION THAT WAS TOO LARGE OR REQUIRING THAT BENEFICIARY TO RETURN SOME
9 OR ALL OF THE DISTRIBUTION TO THE TRUST.

10 3. TO THE EXTENT THAT THE COURT IS UNABLE, AFTER APPLYING PARAGRAPHS
11 1 AND 2 OF THIS SUBSECTION, TO RESTORE THE BENEFICIARIES OR THE TRUST, OR
12 BOTH, TO THE POSITIONS THEY WOULD HAVE OCCUPIED IF THE FIDUCIARY HAD NOT
13 ABUSED ITS DISCRETION, THE COURT MAY REQUIRE THE FIDUCIARY TO PAY AN
14 APPROPRIATE AMOUNT FROM ITS OWN FUNDS TO ONE OR MORE OF THE BENEFICIARIES OR
15 THE TRUST, OR BOTH.

16 D. ON A PETITION BY THE FIDUCIARY, THE COURT HAVING JURISDICTION OVER
17 THE TRUST OR ESTATE SHALL DETERMINE WHETHER A PROPOSED EXERCISE OR
18 NONEXERCISE BY THE FIDUCIARY OF A DISCRETIONARY POWER CONFERRED BY THIS
19 ARTICLE WILL RESULT IN AN ABUSE OF THE FIDUCIARY'S DISCRETION. IF THE
20 PETITION DESCRIBES THE PROPOSED EXERCISE OR NONEXERCISE OF THE POWER AND
21 CONTAINS SUFFICIENT INFORMATION TO INFORM THE BENEFICIARIES OF THE REASONS
22 FOR THE PROPOSAL, THE FACTS ON WHICH THE FIDUCIARY RELIES AND AN EXPLANATION
23 OF HOW THE INCOME AND REMAINDER BENEFICIARIES WILL BE AFFECTED BY THE
24 PROPOSED EXERCISE OR NONEXERCISE OF THE POWER, A BENEFICIARY WHO CHALLENGES
25 THE PROPOSED EXERCISE OR NONEXERCISE HAS THE BURDEN OF ESTABLISHING THAT IT
26 WILL RESULT IN AN ABUSE OF DISCRETION.

27 14-7405. Determination and distribution of net income

28 AFTER A DECEDENT DIES, IN THE CASE OF AN ESTATE, OR AFTER AN INCOME
29 INTEREST IN A TRUST ENDS, THE FOLLOWING APPLY:

30 1. A FIDUCIARY OF AN ESTATE OR OF A TERMINATING INCOME INTEREST SHALL
31 DETERMINE THE AMOUNT OF NET INCOME AND NET PRINCIPAL RECEIPTS RECEIVED FROM
32 PROPERTY SPECIFICALLY GIVEN TO A BENEFICIARY PURSUANT TO THE PROVISIONS OF
33 SECTIONS 14-7407 THROUGH 14-7430 THAT APPLY TO TRUSTEES AND PARAGRAPH 5 OF
34 THIS SECTION. THE FIDUCIARY SHALL DISTRIBUTE THE NET INCOME AND NET
35 PRINCIPAL RECEIPTS TO THE BENEFICIARY WHO IS TO RECEIVE THE SPECIFIC
36 PROPERTY.

37 2. A FIDUCIARY SHALL DETERMINE THE REMAINING NET INCOME OF A
38 DECEDENT'S ESTATE OR A TERMINATING INCOME INTEREST PURSUANT TO THE PROVISIONS
39 OF SECTIONS 14-7407 THROUGH 14-7430 THAT APPLY TO TRUSTEES AND BY:

40 (a) INCLUDING IN NET INCOME ALL INCOME FROM PROPERTY USED TO DISCHARGE
41 LIABILITIES.

42 (b) PAYING FROM INCOME OR PRINCIPAL, IN THE FIDUCIARY'S DISCRETION,
43 FEES OF ATTORNEYS, ACCOUNTANTS AND FIDUCIARIES, COURT COSTS AND OTHER
44 EXPENSES OF ADMINISTRATION AND INTEREST ON DEATH TAXES, BUT THE FIDUCIARY MAY
45 PAY THOSE EXPENSES FROM INCOME OF PROPERTY PASSING TO A TRUST FOR WHICH THE

1 FIDUCIARY CLAIMS AN ESTATE TAX MARITAL OR CHARITABLE DEDUCTION ONLY TO THE
2 EXTENT THAT THE PAYMENT OF THOSE EXPENSES FROM INCOME WILL NOT CAUSE THE
3 REDUCTION OR LOSS OF THE DEDUCTION.

4 (c) PAYING FROM PRINCIPAL ALL OTHER DISBURSEMENTS MADE OR INCURRED IN
5 CONNECTION WITH THE SETTLEMENT OF A DECEDENT'S ESTATE OR THE WINDING UP OF
6 A TERMINATING INCOME INTEREST, INCLUDING DEBTS, FUNERAL EXPENSES, DISPOSITION
7 OF REMAINS, FAMILY ALLOWANCES AND DEATH TAXES AND RELATED PENALTIES THAT ARE
8 APPORTIONED TO THE ESTATE OR TERMINATING INCOME INTEREST BY THE WILL, THE
9 TERMS OF THE TRUST OR APPLICABLE LAW.

10 3. A FIDUCIARY SHALL DISTRIBUTE TO A BENEFICIARY WHO RECEIVES A
11 PECUNIARY AMOUNT OUTRIGHT THE INTEREST OR ANY OTHER AMOUNT PROVIDED BY THE
12 WILL, THE TERMS OF THE TRUST OR APPLICABLE LAW FROM NET INCOME DETERMINED
13 UNDER PARAGRAPH 2 OF THIS SECTION OR FROM PRINCIPAL TO THE EXTENT THAT NET
14 INCOME IS INSUFFICIENT. IF A BENEFICIARY IS TO RECEIVE A PECUNIARY AMOUNT
15 OUTRIGHT FROM A TRUST AFTER AN INCOME INTEREST ENDS AND NO INTEREST OR OTHER
16 AMOUNT IS PROVIDED FOR BY THE TERMS OF THE TRUST OR APPLICABLE LAW, THE
17 FIDUCIARY SHALL DISTRIBUTE THE INTEREST OR OTHER AMOUNT TO WHICH THE
18 BENEFICIARY WOULD BE ENTITLED UNDER APPLICABLE LAW IF THE PECUNIARY AMOUNT
19 WERE REQUIRED TO BE PAID UNDER A WILL.

20 4. A FIDUCIARY SHALL DISTRIBUTE THE NET INCOME REMAINING AFTER
21 DISTRIBUTIONS REQUIRED BY PARAGRAPH 3 OF THIS SECTION IN THE MANNER DESCRIBED
22 IN SECTION 14-7406 TO ALL OTHER BENEFICIARIES, INCLUDING A BENEFICIARY WHO
23 RECEIVES A PECUNIARY AMOUNT IN TRUST, EVEN IF THE BENEFICIARY HOLDS AN
24 UNQUALIFIED POWER TO WITHDRAW ASSETS FROM THE TRUST OR OTHER PRESENTLY
25 EXERCISABLE GENERAL POWER OF APPOINTMENT OVER THE TRUST.

26 5. A FIDUCIARY MAY NOT REDUCE PRINCIPAL OR INCOME RECEIPTS FROM
27 PROPERTY DESCRIBED IN PARAGRAPH 1 OF THIS SECTION BECAUSE OF A PAYMENT
28 DESCRIBED IN SECTION 14-7425 OR 14-7426 TO THE EXTENT THAT THE WILL, THE
29 TERMS OF THE TRUST OR APPLICABLE LAW REQUIRES THE FIDUCIARY TO MAKE THE
30 PAYMENT FROM ASSETS OTHER THAN THE PROPERTY OR TO THE EXTENT THAT THE
31 FIDUCIARY RECOVERS OR EXPECTS TO RECOVER THE PAYMENT FROM A THIRD PARTY. THE
32 NET INCOME AND PRINCIPAL RECEIPTS FROM THE PROPERTY ARE DETERMINED BY
33 INCLUDING ALL OF THE AMOUNTS THE FIDUCIARY RECEIVES OR PAYS WITH RESPECT TO
34 THE PROPERTY, WHETHER THOSE AMOUNTS ACCRUED OR BECAME DUE BEFORE, ON OR AFTER
35 THE DATE OF A DECEDENT'S DEATH OR AN INCOME INTEREST'S TERMINATING EVENT, AND
36 BY MAKING A REASONABLE PROVISION FOR AMOUNTS THAT THE FIDUCIARY BELIEVES THE
37 ESTATE OR TERMINATING INCOME INTEREST MAY BECOME OBLIGATED TO PAY AFTER THE
38 PROPERTY IS DISTRIBUTED.

39 14-7406. Distribution to residuary and remainder beneficiaries

40 A. EACH BENEFICIARY DESCRIBED IN SECTION 14-7405, PARAGRAPH 4 IS
41 ENTITLED TO RECEIVE A PORTION OF THE NET INCOME EQUAL TO THE BENEFICIARY'S
42 FRACTIONAL INTEREST IN UNDISTRIBUTED PRINCIPAL ASSETS, USING VALUES AS OF THE
43 DISTRIBUTION DATE. IF A FIDUCIARY MAKES MORE THAN ONE DISTRIBUTION OF ASSETS
44 TO BENEFICIARIES TO WHOM THIS SECTION APPLIES, EACH BENEFICIARY, INCLUDING
45 ONE WHO DOES NOT RECEIVE PART OF THE DISTRIBUTION, IS ENTITLED, AS OF EACH

1 DISTRIBUTION DATE, TO THE NET INCOME THE FIDUCIARY HAS RECEIVED AFTER THE
2 DATE OF DEATH OR TERMINATING EVENT OR EARLIER DISTRIBUTION DATE BUT HAS NOT
3 DISTRIBUTED AS OF THE CURRENT DISTRIBUTION DATE.

4 B. IN DETERMINING A BENEFICIARY'S SHARE OF NET INCOME, THE FOLLOWING
5 APPLY:

6 1. THE BENEFICIARY IS ENTITLED TO RECEIVE A PORTION OF THE NET INCOME
7 EQUAL TO THE BENEFICIARY'S FRACTIONAL INTEREST IN THE UNDISTRIBUTED PRINCIPAL
8 ASSETS IMMEDIATELY BEFORE THE DISTRIBUTION DATE, INCLUDING ASSETS THAT LATER
9 MAY BE SOLD TO MEET PRINCIPAL OBLIGATIONS.

10 2. THE BENEFICIARY'S FRACTIONAL INTEREST IN THE UNDISTRIBUTED
11 PRINCIPAL ASSETS MUST BE CALCULATED WITHOUT REGARD TO PROPERTY SPECIFICALLY
12 GIVEN TO A BENEFICIARY AND PROPERTY REQUIRED TO PAY PECUNIARY AMOUNTS NOT IN
13 TRUST.

14 3. THE BENEFICIARY'S FRACTIONAL INTEREST IN THE UNDISTRIBUTED
15 PRINCIPAL ASSETS MUST BE CALCULATED ON THE BASIS OF THE AGGREGATE VALUE OF
16 THOSE ASSETS AS OF THE DISTRIBUTION DATE WITHOUT REDUCING THE VALUE BY ANY
17 UNPAID PRINCIPAL OBLIGATION.

18 4. THE DISTRIBUTION DATE FOR PURPOSES OF THIS SECTION MAY BE THE DATE
19 AS OF WHICH THE FIDUCIARY CALCULATES THE VALUE OF THE ASSETS IF THAT DATE IS
20 REASONABLY NEAR THE DATE ON WHICH ASSETS ARE ACTUALLY DISTRIBUTED.

21 C. IF A FIDUCIARY DOES NOT DISTRIBUTE ALL OF THE COLLECTED BUT
22 UNDISTRIBUTED NET INCOME TO EACH PERSON AS OF A DISTRIBUTION DATE, THE
23 FIDUCIARY SHALL MAINTAIN APPROPRIATE RECORDS SHOWING THE INTEREST OF EACH
24 BENEFICIARY IN THAT NET INCOME.

25 D. A FIDUCIARY MAY APPLY THIS SECTION TO THE EXTENT THAT THE FIDUCIARY
26 CONSIDERS IT APPROPRIATE, TO NET GAIN OR LOSS REALIZED AFTER THE DATE OF
27 DEATH OR TERMINATING EVENT OR EARLIER DISTRIBUTION DATE FROM THE DISPOSITION
28 OF A PRINCIPAL ASSET IF THIS SECTION APPLIES TO THE INCOME FROM THE ASSET.

29 14-7407. When right to income begins and ends

30 A. AN INCOME BENEFICIARY IS ENTITLED TO NET INCOME FROM THE DATE ON
31 WHICH THE INCOME INTEREST BEGINS. AN INCOME INTEREST BEGINS ON THE DATE
32 SPECIFIED IN THE TERMS OF THE TRUST OR, IF NO DATE IS SPECIFIED, ON THE DATE
33 AN ASSET BECOMES SUBJECT TO A TRUST OR SUCCESSIVE INCOME INTEREST.

34 B. AN ASSET BECOMES SUBJECT TO A TRUST ON ANY OF THE FOLLOWING DATES:
35 1. THE DATE IT IS TRANSFERRED TO THE TRUST IN THE CASE OF AN ASSET
36 THAT IS TRANSFERRED TO A TRUST DURING THE TRANSFEROR'S LIFE.

37 2. THE DATE OF A TESTATOR'S DEATH IN THE CASE OF AN ASSET THAT BECOMES
38 SUBJECT TO A TRUST BY REASON OF A WILL, EVEN IF THERE IS AN INTERVENING
39 PERIOD OF ADMINISTRATION OF THE TESTATOR'S ESTATE.

40 3. THE DATE OF AN INDIVIDUAL'S DEATH IN THE CASE OF AN ASSET THAT IS
41 TRANSFERRED TO A FIDUCIARY BY A THIRD PARTY BECAUSE OF THE INDIVIDUAL'S
42 DEATH.

43 C. AN ASSET BECOMES SUBJECT TO A SUCCESSIVE INCOME INTEREST ON THE DAY
44 AFTER THE PRECEDING INCOME INTEREST ENDS, AS DETERMINED UNDER SUBSECTION D,

1 EVEN IF THERE IS AN INTERVENING PERIOD OF ADMINISTRATION TO WIND UP THE
2 PRECEDING INCOME INTEREST.

3 D. AN INCOME INTEREST ENDS ON THE DAY BEFORE AN INCOME BENEFICIARY
4 DIES OR ANOTHER TERMINATING EVENT OCCURS OR ON THE LAST DAY OF A PERIOD
5 DURING WHICH THERE IS NO BENEFICIARY TO WHOM A TRUSTEE MAY DISTRIBUTE INCOME.

6 14-7408. Apportionment of receipts and disbursements when
7 decedent dies or income interest begins

8 A. A TRUSTEE SHALL ALLOCATE AN INCOME RECEIPT OR DISBURSEMENT OTHER
9 THAN ONE TO WHICH SECTION 14-7405, PARAGRAPH 1 APPLIES TO PRINCIPAL IF ITS
10 DUE DATE OCCURS BEFORE A DECEDENT DIES IN THE CASE OF AN ESTATE OR BEFORE AN
11 INCOME INTEREST BEGINS IN THE CASE OF A TRUST OR SUCCESSIVE INCOME INTEREST.

12 B. A TRUSTEE SHALL ALLOCATE AN INCOME RECEIPT OR DISBURSEMENT TO
13 INCOME IF ITS DUE DATE OCCURS ON OR AFTER THE DATE ON WHICH A DECEDENT DIES
14 OR AN INCOME INTEREST BEGINS AND IT IS A PERIODIC DUE DATE. AN INCOME
15 RECEIPT OR DISBURSEMENT MUST BE TREATED AS ACCRUING FROM DAY TO DAY IF ITS
16 DUE DATE IS NOT PERIODIC OR IT HAS NO DUE DATE. THE PORTION OF THE RECEIPT
17 OR DISBURSEMENT ACCRUING BEFORE THE DATE ON WHICH A DECEDENT DIES OR AN
18 INCOME INTEREST BEGINS MUST BE ALLOCATED TO PRINCIPAL AND THE BALANCE MUST
19 BE ALLOCATED TO INCOME.

20 C. AN ITEM OF INCOME OR AN OBLIGATION IS DUE ON THE DATE THE PAYER IS
21 REQUIRED TO MAKE A PAYMENT. IF A PAYMENT DATE IS NOT STATED, THERE IS NO DUE
22 DATE FOR THE PURPOSES OF THIS ARTICLE. DISTRIBUTIONS TO SHAREHOLDERS OR
23 OTHER OWNERS FROM AN ENTITY TO WHICH SECTION 14-7410 APPLIES ARE DEEMED TO
24 BE DUE ON THE DATE FIXED BY THE ENTITY FOR DETERMINING WHO IS ENTITLED TO
25 RECEIVE THE DISTRIBUTION OR, IF NO DATE IS FIXED, ON THE DECLARATION DATE FOR
26 THE DISTRIBUTION. A DUE DATE IS PERIODIC FOR RECEIPTS OR DISBURSEMENTS THAT
27 MUST BE PAID AT REGULAR INTERVALS UNDER A LEASE OR AN OBLIGATION TO PAY
28 INTEREST OR IF AN ENTITY CUSTOMARILY MAKES DISTRIBUTIONS AT REGULAR
29 INTERVALS.

30 14-7409. Apportionment when income interest ends; definition

31 A. WHEN A MANDATORY INCOME INTEREST ENDS, THE TRUSTEE SHALL PAY TO A
32 MANDATORY INCOME BENEFICIARY WHO SURVIVES THAT DATE, OR THE ESTATE OF A
33 DECEASED MANDATORY INCOME BENEFICIARY WHOSE DEATH CAUSES THE INTEREST TO END,
34 THE BENEFICIARY'S SHARE OF THE UNDISTRIBUTED INCOME THAT IS NOT DISPOSED OF
35 UNDER THE TERMS OF THE TRUST UNLESS THE BENEFICIARY HAS AN UNQUALIFIED POWER
36 TO REVOKE MORE THAN FIVE PER CENT OF THE TRUST IMMEDIATELY BEFORE THE INCOME
37 INTEREST ENDS. IN THE LATTER CASE, THE UNDISTRIBUTED INCOME FROM THE PORTION
38 OF THE TRUST THAT MAY BE REVOKED MUST BE ADDED TO PRINCIPAL.

39 B. WHEN A TRUSTEE'S OBLIGATION TO PAY A FIXED ANNUITY OR A FIXED
40 FRACTION OF THE VALUE OF THE TRUST'S ASSETS ENDS, THE TRUSTEE SHALL PRORATE
41 THE FINAL PAYMENT TO THE EXTENT REQUIRED BY APPLICABLE LAW TO ACCOMPLISH A
42 PURPOSE OF THE TRUST OR ITS SETTLOR RELATING TO INCOME, GIFT, ESTATE OR OTHER
43 TAX REQUIREMENTS.

44 C. FOR THE PURPOSES OF THIS SECTION, "UNDISTRIBUTED INCOME" MEANS NET
45 INCOME RECEIVED BEFORE THE DATE ON WHICH AN INCOME INTEREST ENDS AND DOES NOT

1 INCLUDE AN ITEM OF INCOME OR EXPENSE THAT IS DUE OR ACCRUED OR NET INCOME
2 THAT HAS BEEN ADDED OR IS REQUIRED TO BE ADDED TO PRINCIPAL UNDER THE TERMS
3 OF THE TRUST.

4 14-7410. Character of receipts; definition

5 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A TRUSTEE SHALL
6 ALLOCATE TO INCOME MONEY RECEIVED FROM AN ENTITY.

7 B. A TRUSTEE SHALL ALLOCATE THE FOLLOWING RECEIPTS FROM AN ENTITY TO
8 PRINCIPAL:

9 1. PROPERTY OTHER THAN MONEY.

10 2. MONEY RECEIVED IN ONE DISTRIBUTION OR A SERIES OF RELATED
11 DISTRIBUTIONS IN EXCHANGE FOR PART OR ALL OF A TRUST'S INTEREST IN THE
12 ENTITY.

13 3. MONEY RECEIVED IN TOTAL OR PARTIAL LIQUIDATION OF THE ENTITY.

14 4. MONEY RECEIVED FROM AN ENTITY THAT IS A REGULATED INVESTMENT
15 COMPANY OR A REAL ESTATE INVESTMENT TRUST IF THE MONEY DISTRIBUTED IS A
16 CAPITAL GAIN DIVIDEND FOR FEDERAL INCOME TAX PURPOSES.

17 C. MONEY IS RECEIVED IN PARTIAL LIQUIDATION EITHER:

18 1. TO THE EXTENT THAT THE ENTITY, AT OR NEAR THE TIME OF A
19 DISTRIBUTION, INDICATES THAT IT IS A DISTRIBUTION IN PARTIAL LIQUIDATION.

20 2. IF THE TOTAL AMOUNT OF MONEY AND PROPERTY RECEIVED IN A
21 DISTRIBUTION OR SERIES OF RELATED DISTRIBUTIONS IS GREATER THAN TWENTY PER
22 CENT OF THE ENTITY'S GROSS ASSETS, AS SHOWN BY THE ENTITY'S YEAR-END
23 FINANCIAL STATEMENTS IMMEDIATELY PRECEDING THE INITIAL RECEIPT.

24 D. MONEY IS NOT RECEIVED IN PARTIAL LIQUIDATION, NOR MAY IT BE TAKEN
25 INTO ACCOUNT UNDER SUBSECTION C, PARAGRAPH 2 OF THIS SECTION TO THE EXTENT
26 THAT IT DOES NOT EXCEED THE AMOUNT OF INCOME TAX THAT A TRUSTEE OR
27 BENEFICIARY MUST PAY ON TAXABLE INCOME OF THE ENTITY THAT DISTRIBUTES THE
28 MONEY.

29 E. A TRUSTEE MAY RELY ON A STATEMENT MADE BY AN ENTITY ABOUT THE
30 SOURCE OR CHARACTER OF A DISTRIBUTION IF THE STATEMENT IS MADE AT OR NEAR THE
31 TIME OF DISTRIBUTION BY THE ENTITY'S BOARD OF DIRECTORS OR ANOTHER PERSON OR
32 GROUP OF PERSONS AUTHORIZED TO EXERCISE POWERS TO PAY MONEY OR TRANSFER
33 PROPERTY COMPARABLE TO THOSE OF A CORPORATION'S BOARD OF DIRECTORS.

34 F. FOR THE PURPOSES OF THIS SECTION, "ENTITY" MEANS ANY CORPORATION,
35 PARTNERSHIP, LIMITED LIABILITY COMPANY, REGULATED INVESTMENT COMPANY, REAL
36 ESTATE INVESTMENT TRUST, COMMON TRUST FUND OR OTHER ORGANIZATION IN WHICH A
37 TRUSTEE HAS AN INTEREST, OTHER THAN A TRUST OR ESTATE TO WHICH SECTION
38 14-7411 APPLIES, A BUSINESS OR ACTIVITY TO WHICH SECTION 14-7412 APPLIES OR
39 AN ASSET-BACKED SECURITY TO WHICH SECTION 14-7424 APPLIES.

40 14-7411. Distribution from trust or estate

41 A TRUSTEE SHALL ALLOCATE TO INCOME AN AMOUNT RECEIVED AS A DISTRIBUTION
42 OF INCOME FROM A TRUST OR AN ESTATE IN WHICH THE TRUST HAS AN INTEREST OTHER
43 THAN A PURCHASED INTEREST AND SHALL ALLOCATE TO PRINCIPAL AN AMOUNT RECEIVED
44 AS A DISTRIBUTION OF PRINCIPAL FROM SUCH A TRUST OR ESTATE. IF A TRUSTEE
45 PURCHASES AN INTEREST IN A TRUST THAT IS AN INVESTMENT ENTITY OR A DECEDENT

1 OR DONOR TRANSFERS AN INTEREST IN SUCH A TRUST TO A TRUSTEE, SECTION 14-7410
2 OR 14-7424 APPLIES TO A RECEIPT FROM THE TRUST.

3 14-7412. Business and other activities conducted by trustee

4 A. IF A TRUSTEE WHO CONDUCTS A BUSINESS OR OTHER ACTIVITY DETERMINES
5 THAT IT IS IN THE BEST INTEREST OF ALL OF THE BENEFICIARIES TO ACCOUNT
6 SEPARATELY FOR THE BUSINESS OR ACTIVITY INSTEAD OF ACCOUNTING FOR IT AS PART
7 OF THE TRUST'S GENERAL ACCOUNTING RECORDS, THE TRUSTEE MAY MAINTAIN SEPARATE
8 ACCOUNTING RECORDS FOR ITS TRANSACTIONS, WHETHER OR NOT ITS ASSETS ARE
9 SEGREGATED FROM OTHER TRUST ASSETS.

10 B. A TRUSTEE WHO ACCOUNTS SEPARATELY FOR ANY BUSINESS OR OTHER
11 ACTIVITY MAY DETERMINE THE EXTENT TO WHICH ITS NET CASH RECEIPTS MUST BE
12 RETAINED FOR WORKING CAPITAL, THE ACQUISITION OR REPLACEMENT OF FIXED ASSETS
13 AND OTHER REASONABLY FORESEEABLE NEEDS OF THE BUSINESS OR ACTIVITY AND THE
14 EXTENT TO WHICH THE REMAINING NET CASH RECEIPTS ARE ACCOUNTED FOR AS
15 PRINCIPAL OR INCOME IN THE TRUST'S GENERAL ACCOUNTING RECORDS. IF A TRUSTEE
16 SELLS ASSETS OF THE BUSINESS OR OTHER ACTIVITY, OTHER THAN IN THE ORDINARY
17 COURSE OF THE BUSINESS OR ACTIVITY, THE TRUSTEE SHALL ACCOUNT FOR THE NET
18 AMOUNT RECEIVED AS PRINCIPAL IN THE TRUST'S GENERAL ACCOUNTING RECORDS TO THE
19 EXTENT THE TRUSTEE DETERMINES THAT THE AMOUNT RECEIVED IS NO LONGER REQUIRED
20 IN THE CONDUCT OF THE BUSINESS.

21 C. ACTIVITIES FOR WHICH A TRUSTEE MAY MAINTAIN SEPARATE ACCOUNTING
22 RECORDS INCLUDE:

23 1. RETAIL, MANUFACTURING, SERVICE AND OTHER TRADITIONAL BUSINESS
24 ACTIVITIES.

25 2. FARMING.

26 3. RAISING AND SELLING LIVESTOCK AND OTHER ANIMALS.

27 4. MANAGEMENT OF RENTAL PROPERTIES.

28 5. EXTRACTION OF MINERALS AND OTHER NATURAL RESOURCES.

29 6. TIMBER OPERATIONS.

30 7. ACTIVITIES TO WHICH SECTION 14-7423 APPLIES.

31 14-7413. Principal receipts

32 A. A TRUSTEE SHALL ALLOCATE TO PRINCIPAL:

33 1. TO THE EXTENT NOT ALLOCATED TO INCOME UNDER THIS ARTICLE, ASSETS
34 RECEIVED FROM A TRANSFEROR DURING THE TRANSFEROR'S LIFETIME, A DECEDENT'S
35 ESTATE, A TRUST WITH A TERMINATING INCOME INTEREST OR A PAYER UNDER A
36 CONTRACT NAMING THE TRUST OR ITS TRUSTEE AS BENEFICIARY.

37 2. MONEY OR OTHER PROPERTY RECEIVED FROM THE SALE, EXCHANGE,
38 LIQUIDATION OR CHANGE IN FORM OF A PRINCIPAL ASSET, INCLUDING REALIZED
39 PROFIT, SUBJECT TO THIS ARTICLE.

40 3. AMOUNTS RECOVERED FROM THIRD PARTIES TO REIMBURSE THE TRUST BECAUSE
41 OF DISBURSEMENTS DESCRIBED IN SECTION 14-7426, SUBSECTION A, PARAGRAPH 7 OR
42 FOR OTHER REASONS TO THE EXTENT NOT BASED ON THE LOSS OF INCOME.

43 4. PROCEEDS OF PROPERTY TAKEN BY EMINENT DOMAIN, BUT A SEPARATE AWARD
44 MADE FOR THE LOSS OF INCOME WITH RESPECT TO AN ACCOUNTING PERIOD DURING WHICH
45 A CURRENT INCOME BENEFICIARY HAD A MANDATORY INCOME INTEREST IS INCOME.

1 5. NET INCOME RECEIVED IN AN ACCOUNTING PERIOD DURING WHICH THERE IS
2 NO BENEFICIARY TO WHOM A TRUSTEE MAY OR MUST DISTRIBUTE INCOME.

3 6. OTHER RECEIPTS AS PROVIDED IN SECTIONS 14-7417 THROUGH 14-7424.
4 14-7414. Rental property

5 TO THE EXTENT THAT A TRUSTEE ACCOUNTS FOR RECEIPTS FROM RENTAL PROPERTY
6 PURSUANT TO THIS SECTION, THE TRUSTEE SHALL ALLOCATE TO INCOME AN AMOUNT
7 RECEIVED AS RENT OF REAL OR PERSONAL PROPERTY, INCLUDING AN AMOUNT RECEIVED
8 FOR CANCELLATION OR RENEWAL OF A LEASE. AN AMOUNT RECEIVED AS A REFUNDABLE
9 DEPOSIT, INCLUDING A SECURITY DEPOSIT OR A DEPOSIT THAT IS TO BE APPLIED AS
10 RENT FOR FUTURE PERIODS, MUST BE ADDED TO PRINCIPAL AND HELD SUBJECT TO THE
11 TERMS OF THE LEASE AND IS NOT AVAILABLE FOR DISTRIBUTION TO A BENEFICIARY
12 UNTIL THE TRUSTEE'S CONTRACTUAL OBLIGATIONS HAVE BEEN SATISFIED WITH RESPECT
13 TO THAT AMOUNT.

14 14-7415. Obligation to pay money

15 A. AN AMOUNT RECEIVED AS INTEREST, WHETHER DETERMINED AT A FIXED,
16 VARIABLE OR FLOATING RATE, ON AN OBLIGATION TO PAY MONEY TO THE TRUSTEE,
17 INCLUDING AN AMOUNT RECEIVED AS CONSIDERATION FOR PREPAYING PRINCIPAL, MUST
18 BE ALLOCATED TO INCOME WITHOUT ANY PROVISION FOR AMORTIZATION OF PREMIUM.

19 B. A TRUSTEE SHALL ALLOCATE TO PRINCIPAL AN AMOUNT RECEIVED FROM THE
20 SALE, REDEMPTION OR OTHER DISPOSITION OF AN OBLIGATION TO PAY MONEY TO THE
21 TRUSTEE MORE THAN ONE YEAR AFTER IT IS PURCHASED OR ACQUIRED BY THE TRUSTEE,
22 INCLUDING AN OBLIGATION WHOSE PURCHASE PRICE OR VALUE WHEN IT IS ACQUIRED IS
23 LESS THAN ITS VALUE AT MATURITY. IF THE OBLIGATION MATURES WITHIN ONE YEAR
24 AFTER IT IS PURCHASED OR ACQUIRED BY THE TRUSTEE, AN AMOUNT RECEIVED IN
25 EXCESS OF ITS PURCHASE PRICE OR ITS VALUE WHEN ACQUIRED BY THE TRUST MUST BE
26 ALLOCATED TO INCOME.

27 C. THIS SECTION DOES NOT APPLY TO AN OBLIGATION TO WHICH SECTION
28 14-7418, 14-7419, 14-7420, 14-7421, 14-7423 OR 14-7424 APPLIES.

29 14-7416. Insurance policies and similar contracts

30 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION, A
31 TRUSTEE SHALL ALLOCATE TO PRINCIPAL THE PROCEEDS OF A LIFE INSURANCE POLICY
32 OR OTHER CONTRACT IN WHICH THE TRUST OR ITS TRUSTEE IS NAMED AS BENEFICIARY,
33 INCLUDING A CONTRACT THAT INSURES THE TRUST OR ITS TRUSTEE AGAINST LOSS FOR
34 DAMAGE TO, DESTRUCTION OF OR LOSS OF TITLE TO A TRUST ASSET. THE TRUSTEE
35 SHALL ALLOCATE DIVIDENDS ON AN INSURANCE POLICY TO INCOME IF THE PREMIUMS ON
36 THE POLICY ARE PAID FROM INCOME, AND TO PRINCIPAL IF THE PREMIUMS ARE PAID
37 FROM PRINCIPAL.

38 B. A TRUSTEE SHALL ALLOCATE TO INCOME PROCEEDS OF A CONTRACT THAT
39 INSURES THE TRUSTEE AGAINST LOSS OF OCCUPANCY OR OTHER USE BY AN INCOME
40 BENEFICIARY, LOSS OF INCOME OR, SUBJECT TO SECTION 14-7412, LOSS OF PROFITS
41 FROM A BUSINESS.

42 C. THIS SECTION DOES NOT APPLY TO A CONTRACT TO WHICH SECTION 14-7418
43 APPLIES.

1 14-7417. Insubstantial allocations not required

2 IF A TRUSTEE DETERMINES THAT AN ALLOCATION BETWEEN PRINCIPAL AND INCOME
3 REQUIRED BY SECTION 14-7418, 14-7419, 14-7420, 14-7421 OR 14-7424 IS
4 INSUBSTANTIAL, THE TRUSTEE MAY ALLOCATE THE ENTIRE AMOUNT TO PRINCIPAL UNLESS
5 ONE OF THE CIRCUMSTANCES DESCRIBED IN SECTION 14-7403, SUBSECTION C APPLIES
6 TO THE ALLOCATION. THIS POWER MAY BE EXERCISED BY A COTRUSTEE IN THE
7 CIRCUMSTANCES DESCRIBED IN SECTION 14-7403, SUBSECTION D AND MAY BE RELEASED
8 FOR THE REASONS AND IN THE MANNER DESCRIBED IN SECTION 14-7403, SUBSECTION
9 E. AN ALLOCATION IS PRESUMED TO BE INSUBSTANTIAL IF EITHER:

10 1. THE AMOUNT OF THE ALLOCATION WOULD INCREASE OR DECREASE NET INCOME
11 IN AN ACCOUNTING PERIOD, AS DETERMINED BEFORE THE ALLOCATION, BY LESS THAN
12 TEN PER CENT.

13 2. THE VALUE OF THE ASSET PRODUCING THE RECEIPT FOR WHICH THE
14 ALLOCATION WOULD BE MADE IS LESS THAN TEN PER CENT OF THE TOTAL VALUE OF THE
15 TRUST'S ASSETS AT THE BEGINNING OF THE ACCOUNTING PERIOD.

16 14-7418. Deferred compensation, annuities and similar payments:
17 definition

18 A. TO THE EXTENT THAT A PAYMENT IS CHARACTERIZED AS INTEREST OR A
19 DIVIDEND, OR A PAYMENT MADE IN LIEU OF INTEREST OR A DIVIDEND, A TRUSTEE
20 SHALL ALLOCATE IT TO INCOME. THE TRUSTEE SHALL ALLOCATE TO PRINCIPAL THE
21 BALANCE OF THE PAYMENT AND ANY OTHER PAYMENT RECEIVED IN THE SAME ACCOUNTING
22 PERIOD THAT IS NOT CHARACTERIZED AS INTEREST, A DIVIDEND OR AN EQUIVALENT
23 PAYMENT.

24 B. IF NO PART OF A PAYMENT IS CHARACTERIZED AS INTEREST, A DIVIDEND
25 OR AN EQUIVALENT PAYMENT, AND ALL OR PART OF THE PAYMENT IS REQUIRED TO BE
26 MADE, A TRUSTEE SHALL ALLOCATE TO INCOME TEN PER CENT OF THE PART THAT IS
27 REQUIRED TO BE MADE DURING THE ACCOUNTING PERIOD AND THE BALANCE TO
28 PRINCIPAL. IF NO PART OF A PAYMENT IS REQUIRED TO BE MADE OR THE PAYMENT
29 RECEIVED IS THE ENTIRE AMOUNT TO WHICH THE TRUSTEE IS ENTITLED, THE TRUSTEE
30 SHALL ALLOCATE THE ENTIRE PAYMENT TO PRINCIPAL. FOR PURPOSES OF THIS
31 SUBSECTION, A PAYMENT IS NOT REQUIRED TO BE MADE TO THE EXTENT THAT IT IS
32 MADE BECAUSE THE TRUSTEE EXERCISES A RIGHT OF WITHDRAWAL.

33 C. IF, TO OBTAIN AN ESTATE TAX MARITAL DEDUCTION FOR A TRUST, A
34 TRUSTEE MUST ALLOCATE MORE OF A PAYMENT TO INCOME THAN PROVIDED FOR BY THIS
35 SECTION, THE TRUSTEE SHALL ALLOCATE TO INCOME THE ADDITIONAL AMOUNT NECESSARY
36 TO OBTAIN THE MARITAL DEDUCTION.

37 D. THIS SECTION DOES NOT APPLY TO PAYMENTS TO WHICH SECTION 14-7419
38 APPLIES.

39 E. FOR THE PURPOSES OF THIS SECTION, "PAYMENT" MEANS A PAYMENT THAT
40 A TRUSTEE MAY RECEIVE OVER A FIXED NUMBER OF YEARS OR DURING THE LIFE OF ONE
41 OR MORE INDIVIDUALS BECAUSE OF SERVICES RENDERED OR PROPERTY TRANSFERRED TO
42 THE PAYER IN EXCHANGE FOR FUTURE PAYMENTS. PAYMENT INCLUDES A PAYMENT MADE
43 IN MONEY OR PROPERTY FROM THE PAYER'S GENERAL ASSETS OR FROM A SEPARATE FUND
44 CREATED BY THE PAYER, INCLUDING A PRIVATE OR COMMERCIAL ANNUITY, AN

1 INDIVIDUAL RETIREMENT ACCOUNT AND A PENSION, PROFIT SHARING, STOCK BONUS OR
2 STOCK OWNERSHIP PLAN.

3 14-7419. Liquidating assets; definition

4 A. A TRUSTEE SHALL ALLOCATE TO INCOME TEN PER CENT OF THE RECEIPTS
5 FROM A LIQUIDATING ASSET AND THE BALANCE TO PRINCIPAL.

6 B. FOR THE PURPOSES OF THIS SECTION, "LIQUIDATING ASSET":

7 1. MEANS AN ASSET WHOSE VALUE WILL DIMINISH OR TERMINATE BECAUSE THE
8 ASSET IS EXPECTED TO PRODUCE RECEIPTS FOR A PERIOD OF LIMITED DURATION.

9 2. INCLUDES A LEASEHOLD, PATENT, COPYRIGHT, ROYALTY RIGHT AND RIGHT
10 TO RECEIVE PAYMENTS DURING A PERIOD OF MORE THAN ONE YEAR UNDER AN
11 ARRANGEMENT THAT DOES NOT PROVIDE FOR THE PAYMENT OF INTEREST ON THE UNPAID
12 BALANCE.

13 3. DOES NOT INCLUDE:

14 (a) A PAYMENT SUBJECT TO SECTION 14-7418.

15 (b) RESOURCES SUBJECT TO SECTION 14-7420.

16 (c) TIMBER SUBJECT TO SECTION 14-7421.

17 (d) AN ACTIVITY SUBJECT TO SECTION 14-7423.

18 (e) AN ASSET SUBJECT TO SECTION 14-7424.

19 (f) ANY ASSET FOR WHICH THE TRUSTEE ESTABLISHES A RESERVE FOR
20 DEPRECIATION UNDER SECTION 14-7427.

21 14-7420. Minerals, water and other natural resources

22 A. TO THE EXTENT THAT A TRUSTEE ACCOUNTS FOR RECEIPTS FROM AN INTEREST
23 IN MINERALS OR OTHER NATURAL RESOURCES PURSUANT TO THIS SECTION, THE TRUSTEE
24 SHALL ALLOCATE THEM AS FOLLOWS:

25 1. IF RECEIVED AS NOMINAL DELAY RENTAL OR NOMINAL ANNUAL RENT ON A
26 LEASE, A RECEIPT MUST BE ALLOCATED TO INCOME.

27 2. IF RECEIVED FROM A PRODUCTION PAYMENT, A RECEIPT MUST BE ALLOCATED
28 TO INCOME IF AND TO THE EXTENT THAT THE AGREEMENT CREATING THE PRODUCTION
29 PAYMENT PROVIDES A FACTOR FOR INTEREST OR ITS EQUIVALENT. THE BALANCE MUST
30 BE ALLOCATED TO PRINCIPAL.

31 3. IF AN AMOUNT RECEIVED AS A ROYALTY, SHUT-IN-WELL PAYMENT,
32 TAKE-OR-PAY PAYMENT, BONUS OR DELAY RENTAL IS MORE THAN NOMINAL, NINETY PER
33 CENT MUST BE ALLOCATED TO PRINCIPAL AND THE BALANCE TO INCOME.

34 4. IF AN AMOUNT IS RECEIVED FROM A WORKING INTEREST OR ANY OTHER
35 INTEREST NOT PROVIDED FOR IN PARAGRAPH 1, 2 OR 3, NINETY PER CENT OF THE NET
36 AMOUNT RECEIVED MUST BE ALLOCATED TO PRINCIPAL AND THE BALANCE TO INCOME.

37 B. AN AMOUNT RECEIVED ON ACCOUNT OF AN INTEREST IN WATER THAT IS
38 RENEWABLE MUST BE ALLOCATED TO INCOME. IF THE WATER IS NOT RENEWABLE, NINETY
39 PER CENT OF THE AMOUNT MUST BE ALLOCATED TO PRINCIPAL AND THE BALANCE TO
40 INCOME.

41 C. THIS ARTICLE APPLIES WHETHER OR NOT A DECEDENT OR DONOR WAS
42 EXTRACTING MINERALS, WATER OR OTHER NATURAL RESOURCES BEFORE THE INTEREST
43 BECAME SUBJECT TO THE TRUST.

44 D. IF A TRUST OWNS AN INTEREST IN MINERALS, WATER OR OTHER NATURAL
45 RESOURCES ON THE EFFECTIVE DATE OF THIS ARTICLE, THE TRUSTEE MAY ALLOCATE

1 RECEIPTS FROM THE INTEREST AS PROVIDED IN THIS ARTICLE OR IN THE MANNER USED
2 BY THE TRUSTEE BEFORE THE EFFECTIVE DATE OF THIS ARTICLE. IF THE TRUST
3 ACQUIRES AN INTEREST IN MINERALS, WATER OR OTHER NATURAL RESOURCES AFTER THE
4 EFFECTIVE DATE OF THIS ARTICLE, THE TRUSTEE SHALL ALLOCATE RECEIPTS FROM THE
5 INTEREST AS PROVIDED IN THIS ARTICLE.

6 14-7421. Timber

7 A. TO THE EXTENT THAT A TRUSTEE ACCOUNTS FOR RECEIPTS FROM THE SALE
8 OF TIMBER AND RELATED PRODUCTS PURSUANT TO THIS SECTION, THE TRUSTEE SHALL
9 ALLOCATE THE NET RECEIPTS:

10 1. TO INCOME TO THE EXTENT THAT THE AMOUNT OF TIMBER REMOVED FROM THE
11 LAND DOES NOT EXCEED THE RATE OF GROWTH OF THE TIMBER DURING THE ACCOUNTING
12 PERIODS IN WHICH A BENEFICIARY HAS A MANDATORY INCOME INTEREST.

13 2. TO PRINCIPAL TO THE EXTENT THAT THE AMOUNT OF TIMBER REMOVED FROM
14 THE LAND EXCEEDS THE RATE OF GROWTH OF THE TIMBER OR THE NET RECEIPTS ARE
15 FROM THE SALE OF STANDING TIMBER.

16 3. TO OR BETWEEN INCOME AND PRINCIPAL IF THE NET RECEIPTS ARE FROM THE
17 LEASE OF TIMBERLAND OR FROM A CONTRACT TO CUT TIMBER FROM LAND OWNED BY A
18 TRUST, BY DETERMINING THE AMOUNT OF TIMBER REMOVED FROM THE LAND UNDER THE
19 LEASE OR CONTRACT AND APPLYING PARAGRAPHS 1 AND 2.

20 4. TO PRINCIPAL TO THE EXTENT THAT ADVANCE PAYMENTS, BONUSES AND OTHER
21 PAYMENTS ARE NOT ALLOCATED PURSUANT TO PARAGRAPH 1, 2 OR 3.

22 B. IN DETERMINING NET RECEIPTS TO BE ALLOCATED PURSUANT TO SUBSECTION
23 A, A TRUSTEE SHALL DEDUCT AND TRANSFER TO PRINCIPAL A REASONABLE AMOUNT FOR
24 DEPLETION.

25 C. THIS ARTICLE APPLIES WHETHER OR NOT A DECEDENT OR TRANSFEROR WAS
26 HARVESTING TIMBER FROM THE PROPERTY BEFORE IT BECAME SUBJECT TO THE TRUST.

27 D. IF A TRUST OWNS AN INTEREST IN TIMBERLAND ON THE EFFECTIVE DATE OF
28 THIS ARTICLE, THE TRUSTEE MAY ALLOCATE NET RECEIPTS FROM THE SALE OF TIMBER
29 AND RELATED PRODUCTS AS PROVIDED IN THIS ARTICLE OR IN THE MANNER USED BY THE
30 TRUSTEE BEFORE THE EFFECTIVE DATE OF THIS ARTICLE. IF THE TRUST ACQUIRES AN
31 INTEREST IN TIMBERLAND AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE TRUSTEE
32 SHALL ALLOCATE NET RECEIPTS FROM THE SALE OF TIMBER AND RELATED PRODUCTS AS
33 PROVIDED IN THIS ARTICLE.

34 14-7422. Property not productive of income

35 A. IF A MARITAL DEDUCTION IS ALLOWED FOR ALL OR PART OF A TRUST WHOSE
36 ASSETS CONSIST SUBSTANTIALLY OF PROPERTY THAT DOES NOT PROVIDE THE SPOUSE
37 WITH SUFFICIENT INCOME FROM OR USE OF THE TRUST ASSETS, AND IF THE AMOUNTS
38 THAT THE TRUSTEE TRANSFERS FROM PRINCIPAL TO INCOME UNDER SECTION 14-7403 AND
39 DISTRIBUTES TO THE SPOUSE FROM PRINCIPAL PURSUANT TO THE TERMS OF THE TRUST
40 ARE INSUFFICIENT TO PROVIDE THE SPOUSE WITH THE BENEFICIAL ENJOYMENT REQUIRED
41 TO OBTAIN THE MARITAL DEDUCTION, THE SPOUSE MAY REQUIRE THE TRUSTEE TO MAKE
42 PROPERTY PRODUCTIVE OF INCOME, CONVERT PROPERTY WITHIN A REASONABLE TIME OR
43 EXERCISE THE POWER CONFERRED BY SECTION 14-7403, SUBSECTION A. THE TRUSTEE
44 MAY DECIDE WHICH ACTION OR COMBINATION OF ACTIONS TO TAKE.

1 P. IN CASES NOT GOVERNED BY SUBSECTION A OF THIS SECTION, PROCEEDS
2 FROM THE SALE OR OTHER DISPOSITION OF AN ASSET ARE PRINCIPAL WITHOUT REGARD
3 TO THE AMOUNT OF INCOME THE ASSET PRODUCES DURING ANY ACCOUNTING PERIOD.

4 14-7423. Derivatives and options; definition

5 A. TO THE EXTENT THAT A TRUSTEE DOES NOT ACCOUNT UNDER SECTION 14-7412
6 FOR TRANSACTIONS IN DERIVATIVES, THE TRUSTEE SHALL ALLOCATE TO PRINCIPAL
7 RECEIPTS FROM AND DISBURSEMENTS MADE IN CONNECTION WITH THOSE TRANSACTIONS.

8 B. IF A TRUSTEE GRANTS AN OPTION TO BUY PROPERTY FROM THE TRUST,
9 WHETHER OR NOT THE TRUST OWNS THE PROPERTY WHEN THE OPTION IS GRANTED, GRANTS
10 AN OPTION THAT PERMITS ANOTHER PERSON TO SELL PROPERTY TO THE TRUST OR
11 ACQUIRES AN OPTION TO BUY PROPERTY FOR THE TRUST OR AN OPTION TO SELL AN
12 ASSET OWNED BY THE TRUST, AND THE TRUSTEE OR OTHER OWNER OF THE ASSET IS
13 REQUIRED TO DELIVER THE ASSET IF THE OPTION IS EXERCISED, AN AMOUNT RECEIVED
14 FOR GRANTING THE OPTION MUST BE ALLOCATED TO PRINCIPAL. AN AMOUNT PAID TO
15 ACQUIRE THE OPTION MUST BE PAID FROM PRINCIPAL. A GAIN OR LOSS REALIZED ON
16 THE EXERCISE OF AN OPTION, INCLUDING AN OPTION GRANTED TO A SETTLOR OF THE
17 TRUST FOR SERVICES RENDERED, MUST BE ALLOCATED TO PRINCIPAL.

18 C. FOR THE PURPOSES OF THIS SECTION, "DERIVATIVE" MEANS A CONTRACT OR
19 FINANCIAL INSTRUMENT OR A COMBINATION OF CONTRACTS AND FINANCIAL INSTRUMENTS
20 THAT GIVES A TRUST THE RIGHT OR OBLIGATION TO PARTICIPATE IN SOME OR ALL
21 CHANGES IN THE PRICE OF A TANGIBLE OR INTANGIBLE ASSET OR GROUP OF ASSETS OR
22 CHANGES IN A RATE, AN INDEX OF PRICES OR RATES OR OTHER MARKET INDICATOR FOR
23 AN ASSET OR A GROUP OF ASSETS.

24 14-7424. Asset-backed securities; definition

25 A. IF A TRUST RECEIVES A PAYMENT FROM INTEREST OR OTHER CURRENT RETURN
26 AND FROM OTHER PROCEEDS OF THE COLLATERAL FINANCIAL ASSETS, THE TRUSTEE SHALL
27 ALLOCATE TO INCOME THE PORTION OF THE PAYMENT THAT THE PAYER IDENTIFIES AS
28 BEING FROM INTEREST OR OTHER CURRENT RETURN AND SHALL ALLOCATE THE BALANCE
29 OF THE PAYMENT TO PRINCIPAL.

30 B. IF A TRUST RECEIVES ONE OR MORE PAYMENTS IN EXCHANGE FOR THE
31 TRUST'S ENTIRE INTEREST IN AN ASSET-BACKED SECURITY IN ONE ACCOUNTING PERIOD,
32 THE TRUSTEE SHALL ALLOCATE THE PAYMENTS TO PRINCIPAL. IF A PAYMENT IS ONE
33 OF A SERIES OF PAYMENTS THAT WILL RESULT IN THE LIQUIDATION OF THE TRUST'S
34 INTEREST IN THE SECURITY OVER MORE THAN ONE ACCOUNTING PERIOD, THE TRUSTEE
35 SHALL ALLOCATE TEN PER CENT OF THE PAYMENT TO INCOME AND THE BALANCE TO
36 PRINCIPAL.

37 C. FOR THE PURPOSES OF THIS SECTION, "ASSET-BACKED SECURITY":

38 1. MEANS AN ASSET WHOSE VALUE IS BASED ON THE RIGHT IT GIVES THE OWNER
39 TO RECEIVE DISTRIBUTIONS FROM THE PROCEEDS OF FINANCIAL ASSETS THAT PROVIDE
40 COLLATERAL FOR THE SECURITY.

41 2. INCLUDES AN ASSET THAT GIVES THE OWNER THE RIGHT TO RECEIVE FROM
42 THE COLLATERAL FINANCIAL ASSETS ONLY THE INTEREST OR OTHER CURRENT RETURN OR
43 ONLY THE PROCEEDS OTHER THAN INTEREST OR CURRENT RETURN.

44 3. DOES NOT INCLUDE AN ASSET TO WHICH SECTION 14-7410 OR 14-7418
45 APPLIES.

1 14-7425. Disbursements from income

2 A TRUSTEE SHALL MAKE THE FOLLOWING DISBURSEMENTS FROM INCOME TO THE
3 EXTENT THAT THEY ARE NOT DISBURSEMENTS TO WHICH SECTION 14-7405, PARAGRAPH
4 2, SUBDIVISION (b) OR (c) APPLIES:

5 1. ONE-HALF OF THE REGULAR COMPENSATION OF THE TRUSTEE AND OF ANY
6 PERSON PROVIDING INVESTMENT ADVISORY OR CUSTODIAL SERVICES TO THE TRUSTEE,
7 WHETHER BASED ON A PERCENTAGE OF INCOME OR PRINCIPAL, A FIXED AMOUNT OR AN
8 HOURLY CHARGE.

9 2. ONE-HALF OF ALL EXPENSES FOR ACCOUNTINGS, REGULARLY RECURRING
10 INCOME TAX PREPARATION SERVICES, JUDICIAL PROCEEDINGS OR OTHER MATTERS THAT
11 INVOLVE BOTH THE INCOME AND REMAINDER INTERESTS.

12 3. ALL OF THE OTHER ORDINARY EXPENSES INCURRED IN CONNECTION WITH THE
13 ADMINISTRATION, MANAGEMENT OR PRESERVATION OF TRUST PROPERTY AND THE
14 DISTRIBUTION OF INCOME, INCLUDING INTEREST, ORDINARY REPAIRS, REGULARLY
15 RECURRING TAXES ASSESSED AGAINST PRINCIPAL AND EXPENSES OF A PROCEEDING OR
16 OTHER MATTER THAT CONCERNS PRIMARILY THE INCOME INTEREST.

17 4. RECURRING PREMIUMS ON INSURANCE COVERING THE LOSS OF A PRINCIPAL
18 ASSET OR THE LOSS OF INCOME FROM OR USE OF THE ASSET.

19 14-7426. Disbursements from principal

20 A. A TRUSTEE SHALL MAKE THE FOLLOWING DISBURSEMENTS FROM PRINCIPAL:

21 1. THE REMAINING ONE-HALF OF THE DISBURSEMENTS DESCRIBED IN SECTION
22 14-7425, PARAGRAPHS 1 AND 2.

23 2. ALL OF THE TRUSTEE'S COMPENSATION CALCULATED ON PRINCIPAL AS A FEE
24 FOR ACCEPTANCE, DISTRIBUTION OR TERMINATION AND DISBURSEMENTS MADE TO PREPARE
25 PROPERTY FOR SALE.

26 3. PAYMENTS ON THE PRINCIPAL OF A TRUST DEBT.

27 4. EXPENSES OF A PROCEEDING THAT CONCERNS PRIMARILY PRINCIPAL,
28 INCLUDING A PROCEEDING TO CONSTRUCT THE TRUST OR TO PROTECT THE TRUST OR ITS
29 PROPERTY.

30 5. PREMIUMS PAID ON A POLICY OF INSURANCE NOT DESCRIBED IN SECTION
31 14-7425, PARAGRAPH 4 OF WHICH THE TRUST IS THE OWNER AND BENEFICIARY.

32 6. ESTATE, INHERITANCE AND OTHER TRANSFER TAXES, INCLUDING PENALTIES,
33 APPORTIONED TO THE TRUST.

34 7. DISBURSEMENTS RELATED TO ENVIRONMENTAL MATTERS, INCLUDING
35 RECLAMATION, ASSESSING ENVIRONMENTAL CONDITIONS, REMEDYING AND REMOVING
36 ENVIRONMENTAL CONTAMINATION, MONITORING REMEDIAL ACTIVITIES AND THE RELEASE
37 OF SUBSTANCES, PREVENTING FUTURE RELEASES OF SUBSTANCES, COLLECTING AMOUNTS
38 FROM PERSONS LIABLE OR POTENTIALLY LIABLE FOR THE COSTS OF THOSE ACTIVITIES,
39 PENALTIES IMPOSED UNDER ENVIRONMENTAL LAWS OR REGULATIONS AND OTHER PAYMENTS
40 MADE TO COMPLY WITH THOSE LAWS OR REGULATIONS, STATUTORY OR COMMON LAW CLAIMS
41 BY THIRD PARTIES AND DEFENDING CLAIMS BASED ON ENVIRONMENTAL MATTERS.

42 B. IF A PRINCIPAL ASSET IS ENCUMBERED WITH AN OBLIGATION THAT REQUIRES
43 INCOME FROM THAT ASSET TO BE PAID DIRECTLY TO THE CREDITOR, THE TRUSTEE SHALL
44 TRANSFER FROM PRINCIPAL TO INCOME AN AMOUNT EQUAL TO THE INCOME PAID TO THE
45 CREDITOR IN REDUCTION OF THE PRINCIPAL BALANCE OF THE OBLIGATION.

1 14-7427. Transfers from income to principal for depreciation;
2 definition

3 A. A TRUSTEE MAY TRANSFER TO PRINCIPAL A REASONABLE AMOUNT OF THE NET
4 CASH RECEIPTS FROM A PRINCIPAL ASSET THAT IS SUBJECT TO DEPRECIATION BUT MAY
5 NOT TRANSFER ANY AMOUNT FOR DEPRECIATION:

6 1. OF THAT PORTION OF REAL PROPERTY USED OR AVAILABLE FOR USE BY A
7 BENEFICIARY AS A RESIDENCE OR OF TANGIBLE PERSONAL PROPERTY HELD OR MADE
8 AVAILABLE FOR THE PERSONAL USE OR ENJOYMENT OF A BENEFICIARY.

9 2. DURING THE ADMINISTRATION OF A DECEDENT'S ESTATE.

10 3. UNDER THIS SECTION IF THE TRUSTEE IS ACCOUNTING UNDER SECTION
11 14-7412 FOR THE BUSINESS OR ACTIVITY IN WHICH THE ASSET IS USED.

12 B. AN AMOUNT TRANSFERRED TO PRINCIPAL NEED NOT BE HELD AS A SEPARATE
13 FUND.

14 C. FOR THE PURPOSES OF THIS SECTION, "DEPRECIATION" MEANS A REDUCTION
15 IN VALUE DUE TO WEAR, TEAR, DECAY, CORROSION OR GRADUAL OBSOLESCENCE OF A
16 FIXED ASSET HAVING A USEFUL LIFE OF MORE THAN ONE YEAR.

17 14-7428. Transfers from income to reimburse principal

18 A. IF A TRUSTEE MAKES OR EXPECTS TO MAKE A PRINCIPAL DISBURSEMENT
19 DESCRIBED IN THIS SECTION, THE TRUSTEE MAY TRANSFER AN APPROPRIATE AMOUNT
20 FROM INCOME TO PRINCIPAL IN ONE OR MORE ACCOUNTING PERIODS TO REIMBURSE
21 PRINCIPAL OR TO PROVIDE A RESERVE FOR FUTURE PRINCIPAL DISBURSEMENTS.

22 B. PRINCIPAL DISBURSEMENTS TO WHICH SUBSECTION A OF THIS SECTION
23 APPLIES INCLUDE THE FOLLOWING, BUT ONLY TO THE EXTENT THAT THE TRUSTEE HAS
24 NOT BEEN AND DOES NOT EXPECT TO BE REIMBURSED BY A THIRD PARTY:

25 1. AN AMOUNT CHARGEABLE TO INCOME BUT PAID FROM PRINCIPAL BECAUSE IT
26 IS UNUSUALLY LARGE, INCLUDING EXTRAORDINARY REPAIRS.

27 2. A CAPITAL IMPROVEMENT TO A PRINCIPAL ASSET, WHETHER IN THE FORM OF
28 CHANGES TO AN EXISTING ASSET OR THE CONSTRUCTION OF A NEW ASSET, INCLUDING
29 SPECIAL ASSESSMENTS.

30 3. DISBURSEMENTS MADE TO PREPARE PROPERTY FOR RENTAL, INCLUDING TENANT
31 ALLOWANCES, LEASEHOLD IMPROVEMENTS AND BROKERS' COMMISSIONS.

32 4. PERIODIC PAYMENTS ON AN OBLIGATION SECURED BY A PRINCIPAL ASSET TO
33 THE EXTENT THAT THE AMOUNT TRANSFERRED FROM INCOME TO PRINCIPAL FOR
34 DEPRECIATION IS LESS THAN THE PERIODIC PAYMENTS.

35 5. DISBURSEMENTS DESCRIBED IN SECTION 14-7426, SUBSECTION A,
36 PARAGRAPH 7.

37 C. IF THE ASSET WHOSE OWNERSHIP GIVES RISE TO THE DISBURSEMENTS
38 BECOMES SUBJECT TO A SUCCESSIVE INCOME INTEREST AFTER AN INCOME INTEREST
39 ENDS, A TRUSTEE MAY CONTINUE TO TRANSFER AMOUNTS FROM INCOME TO PRINCIPAL AS
40 PROVIDED IN SUBSECTION A OF THIS SECTION.

41 14-7429. Income taxes

42 A. A TAX REQUIRED TO BE PAID BY A TRUSTEE BASED ON RECEIPTS ALLOCATED
43 TO INCOME MUST BE PAID FROM INCOME.

1 B. A TAX REQUIRED TO BE PAID BY A TRUSTEE BASED ON RECEIPTS ALLOCATED
2 TO PRINCIPAL MUST BE PAID FROM PRINCIPAL, EVEN IF THE TAX IS CALLED AN INCOME
3 TAX BY THE TAXING AUTHORITY.

4 C. A TAX REQUIRED TO BE PAID BY A TRUSTEE ON THE TRUST'S SHARE OF AN
5 ENTITY'S TAXABLE INCOME MUST BE PAID PROPORTIONATELY:

6 1. FROM INCOME TO THE EXTENT THAT RECEIPTS FROM THE ENTITY ARE
7 ALLOCATED TO INCOME.

8 2. FROM PRINCIPAL TO THE EXTENT THAT BOTH:

9 (a) RECEIPTS FROM THE ENTITY ARE ALLOCATED TO PRINCIPAL.

10 (b) THE TRUST'S SHARE OF THE ENTITY'S TAXABLE INCOME EXCEEDS THE TOTAL
11 RECEIPTS DESCRIBED IN PARAGRAPH 1 AND SUBDIVISION (a) OF THIS PARAGRAPH.

12 D. FOR PURPOSES OF THIS SECTION, RECEIPTS ALLOCATED TO PRINCIPAL OR
13 INCOME MUST BE REDUCED BY THE AMOUNT DISTRIBUTED TO A BENEFICIARY FROM
14 PRINCIPAL OR INCOME FOR WHICH THE TRUST RECEIVES A DEDUCTION IN CALCULATING
15 THE TAX.

16 14-7430. Adjustments between principal and income because of
17 taxes

18 A. A FIDUCIARY MAY MAKE ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME TO
19 OFFSET THE SHIFTING OF ECONOMIC INTERESTS OR TAX BENEFITS BETWEEN INCOME
20 BENEFICIARIES AND REMAINDER BENEFICIARIES THAT ARISE FROM:

21 1. ELECTIONS AND DECISIONS, OTHER THAN THOSE DESCRIBED IN SUBSECTION
22 B, THAT THE FIDUCIARY MAKES FROM TIME TO TIME REGARDING TAX MATTERS.

23 2. AN INCOME TAX OR ANY OTHER TAX THAT IS IMPOSED ON THE FIDUCIARY OR
24 A BENEFICIARY AS A RESULT OF A TRANSACTION INVOLVING OR A DISTRIBUTION FROM
25 THE ESTATE OR TRUST.

26 3. THE OWNERSHIP BY AN ESTATE OR TRUST OF AN INTEREST IN AN ENTITY
27 WHOSE TAXABLE INCOME, WHETHER OR NOT DISTRIBUTED, IS INCLUDIBLE IN THE
28 TAXABLE INCOME OF THE ESTATE, THE TRUST OR A BENEFICIARY.

29 B. IF THE AMOUNT OF AN ESTATE TAX MARITAL DEDUCTION OR CHARITABLE
30 CONTRIBUTION DEDUCTION IS REDUCED BECAUSE A FIDUCIARY DEDUCTS AN AMOUNT PAID
31 FROM PRINCIPAL FOR INCOME TAX PURPOSES INSTEAD OF DEDUCTING IT FOR ESTATE TAX
32 PURPOSES, AND AS A RESULT ESTATE TAXES PAID FROM PRINCIPAL ARE INCREASED AND
33 INCOME TAXES PAID BY AN ESTATE, TRUST OR BENEFICIARY ARE DECREASED, EACH
34 ESTATE, TRUST OR BENEFICIARY THAT BENEFITS FROM THE DECREASE IN INCOME TAX
35 SHALL REIMBURSE THE PRINCIPAL FROM WHICH THE INCREASE IN ESTATE TAX IS PAID.
36 THE TOTAL REIMBURSEMENT MUST EQUAL THE INCREASE IN THE ESTATE TAX TO THE
37 EXTENT THAT THE PRINCIPAL USED TO PAY THE INCREASE WOULD HAVE QUALIFIED FOR
38 A MARITAL DEDUCTION OR CHARITABLE CONTRIBUTION DEDUCTION BUT FOR THE PAYMENT.
39 THE PROPORTIONATE SHARE OF THE REIMBURSEMENT FOR EACH ESTATE, TRUST OR
40 BENEFICIARY WHOSE INCOME TAXES ARE REDUCED MUST BE THE SAME AS ITS
41 PROPORTIONATE SHARE OF THE TOTAL DECREASE IN INCOME TAX. AN ESTATE OR TRUST
42 SHALL REIMBURSE PRINCIPAL FROM INCOME.

1 14-7431. Proposed actions; notification; definition

2 A. A TRUSTEE MAY, BUT IS NOT REQUIRED TO, GIVE NOTICE OF A PROPOSED
3 ACTION REGARDING A MATTER GOVERNED BY THIS ARTICLE AS PROVIDED IN THIS
4 SECTION.

5 B. THE TRUSTEE SHALL MAIL NOTICE OF A PROPOSED ACTION, BY CERTIFIED,
6 REGISTERED OR ORDINARY FIRST CLASS MAIL, TO ALL BENEFICIARIES WHO ARE
7 RECEIVING, OR ARE ENTITLED TO RECEIVE, INCOME FROM THE TRUST OR TO RECEIVE
8 A DISTRIBUTION OF PRINCIPAL IF THE TRUST WERE TERMINATED AT THE TIME THE
9 NOTICE IS GIVEN. THE TRUSTEE MUST GIVE NOTICE TO ANY BENEFICIARY UNDER ANY
10 INCAPACITY PURSUANT TO SECTION 14-1403.

11 C. THE TRUSTEE IS NOT REQUIRED TO GIVE NOTICE OF A PROPOSED ACTION TO
12 ANY PERSON WHO CONSENTS IN WRITING TO THE PROPOSED ACTION. A PERSON MAY GIVE
13 CONSENT AT ANY TIME BEFORE OR AFTER THE PROPOSED ACTION IS TAKEN.

14 D. THE NOTICE OF THE PROPOSED ACTION SHALL STATE THAT IT IS GIVEN
15 PURSUANT TO THIS ARTICLE AND SHALL CONTAIN ALL OF THE FOLLOWING:

16 1. THE NAME AND MAILING ADDRESS OF THE TRUSTEE.

17 2. THE NAME AND TELEPHONE NUMBER OF A PERSON WHO MAY BE CONTACTED FOR
18 ADDITIONAL INFORMATION.

19 3. A DESCRIPTION OF THE ACTION PROPOSED TO BE TAKEN AND AN EXPLANATION
20 OF THE REASONS FOR THE ACTION.

21 4. THE TIME WITHIN WHICH OBJECTIONS TO THE PROPOSED ACTION CAN BE
22 MADE, WHICH SHALL BE AT LEAST THIRTY DAYS AFTER THE MAILING OF THE NOTICE.

23 5. THE DATE ON OR AFTER WHICH THE PROPOSED ACTION MAY BE TAKEN OR IS
24 EFFECTIVE.

25 E. A BENEFICIARY MAY OBJECT TO THE PROPOSED ACTION BY MAILING A
26 WRITTEN OBJECTION TO THE TRUSTEE AT THE ADDRESS STATED IN THE NOTICE OF
27 PROPOSED ACTION WITHIN THE TIME PERIOD SPECIFIED IN THE NOTICE OF PROPOSED
28 ACTION.

29 F. A TRUSTEE IS NOT LIABLE TO A BENEFICIARY FOR AN ACTION REGARDING
30 A MATTER GOVERNED BY THIS ARTICLE IF THE TRUSTEE DOES NOT RECEIVE A WRITTEN
31 OBJECTION TO THE PROPOSED ACTION FROM THE BENEFICIARY WITHIN THE APPLICABLE
32 TIME PERIOD AND THE OTHER REQUIREMENTS OF THIS ARTICLE ARE SATISFIED. IF A
33 BENEFICIARY ENTITLED TO NOTICE DOES NOT OBJECT UNDER THIS SECTION, THE
34 TRUSTEE IS NOT LIABLE TO ANY CURRENT OR FUTURE BENEFICIARY WITH RESPECT TO
35 THE PROPOSED ACTION.

36 G. IF THE TRUSTEE RECEIVES A WRITTEN OBJECTION WITHIN THE APPLICABLE
37 TIME PERIOD, EITHER THE TRUSTEE OR A BENEFICIARY MAY PETITION THE COURT TO
38 HAVE THE PROPOSED ACTION TAKEN AS PROPOSED, TAKEN WITH MODIFICATIONS OR NOT
39 TAKEN AT ALL. AN OBJECTING BENEFICIARY HAS THE BURDEN OF PROVING THAT THE
40 TRUSTEE'S PROPOSED ACTION SHOULD NOT BE TAKEN. A BENEFICIARY WHO HAS NOT
41 OBJECTED MAY OPPOSE THE PROPOSED ACTION IN SUCH A PROCEEDING. IF THE TRUSTEE
42 DECIDES NOT TO IMPLEMENT THE PROPOSED ACTION, THE TRUSTEE SHALL NOTIFY THE
43 BENEFICIARIES OF THE DECISION NOT TO TAKE THE ACTION AND THE REASONS FOR THE
44 DECISION. THE TRUSTEE'S DECISION NOT TO IMPLEMENT THE PROPOSED ACTION DOES
45 NOT GIVE RISE TO LIABILITY TO ANY CURRENT OR FUTURE BENEFICIARY. IN SUCH

1 CIRCUMSTANCES, A BENEFICIARY MAY PETITION THE COURT TO HAVE THE ACTION TAKEN
2 AND HAS THE BURDEN OF PROVING THAT IT SHOULD BE TAKEN.

3 H. FOR THE PURPOSES OF THIS SECTION, "PROPOSED ACTION" INCLUDES A
4 COURSE OF ACTION OR A DECISION NOT TO TAKE A COURSE OF ACTION.

5 Sec. 3. Application of article

6 This article applies to every trust or decedent's estate existing on
7 the effective date of this article except as otherwise expressly provided in
8 the will or terms of the trust or in this article.

9 Sec. 4. Short title

10 This act may be cited as the "Revised Uniform Principal and Income
11 Act".

12 Sec. 5. Effective date

13 This act is effective from and after December 31, 2001.


APPROVED BY THE GOVERNOR APRIL 21, 2001.

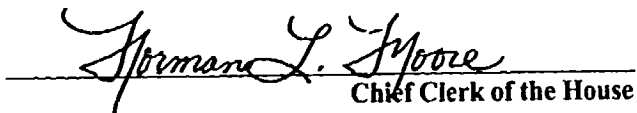
FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2001.

Passed the House April 16, 2001,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

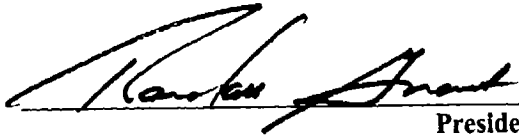

Speaker of the House

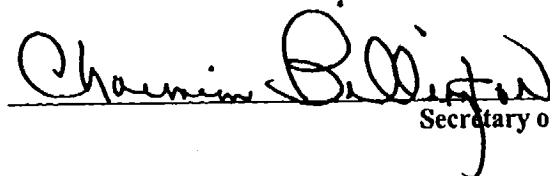

Chief Clerk of the House

Passed the Senate February 19, 2001,

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting


President of the Senate

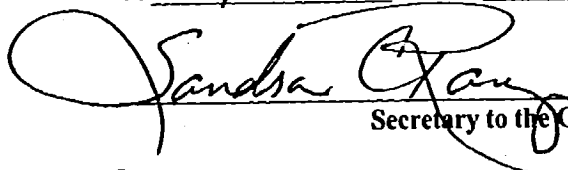

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of April, 2001,

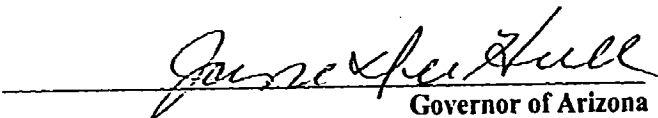
at 4:53 o'clock P M.


Secretary to the Governor

Approved this 21 day of

April, 2001,

at 9:52 o'clock ll M.

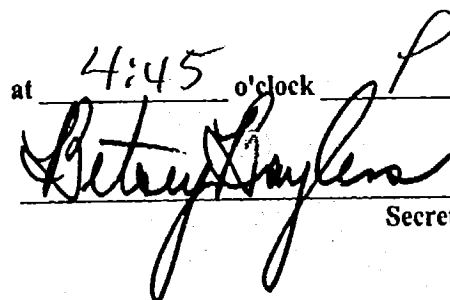

Governor of Arizona

S.B. 1187

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2001,

at 4:45 o'clock P M.

Secretary of State